

GENERAL ORDER

FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: DOMESTIC VIOLENCE POLICY	NUMBER: 601.4
CANCELS ORDER DATED: 11-01-10	DATE: 04-01-13

I. PURPOSE

The purpose of this directive is to set forth the procedures for police intervention in cases of reported or identified domestic violence. The provisions of this directive are intended to supplement the investigative and reporting requirements already imposed by law and by existing regulations and general orders.

II. POLICY

Domestic violence is a crime that differs from other crimes because of the intimate/familial relationship between the victim and the accused. Notwithstanding that difference, officers shall respond to domestic violence incidents as they would respond to any crime and take appropriate action to arrest and pursue criminal remedies whenever sufficient probable cause exists. As with victims of all other crimes, officers shall ensure that victims are provided with all necessary assistance and are informed of services available to victims of domestic violence, consistent with *Code of Virginia* §19.2-11.01 and General Order 501.2, Investigative Responsibilities.

III. DEFINITIONS

Respondent: The person named in a protective order as an allegedly abusive spouse or family/household member.

Petitioner: The allegedly abused spouse or family/household member in a protective order.

Family or Household Member: (1) the person's spouse, whether or not he or she resides in the same home with the person, (2) the person's former spouse, whether or not he or she resides in the same home with the person, (3) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (4) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (5) any individual who has a child in common with the person whether or not the person and that

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individual have been married or have resided together at any time, or (6) any individual who cohabits or who, within the previous twelve months, cohabited with the person, and any children of either of them residing in the same home with the person (*Code of Virginia* §16.1-228).

Cohabiting: The Virginia Attorney General issued an opinion in 2006 that same sex partners can be charged with domestic assault if they are currently cohabiting. Cohabiting is determined by a totality of the circumstances test and must be considered on a case by case basis. Factors such as shared responsibility for shelter, food, clothing, commingled assets, affection, aid of each other and conjugal relations are all possible points of meeting the threshold for cohabitation. Same sex partners determined to be cohabiting, and meeting probable cause for assault, shall be charged under *Code of Virginia* §18.2-57.2, Assault and battery against a family or household member.

Family Abuse: Any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury

Domestic Dispute: For reporting purposes, any incident, not involving a violent criminal offense, in which the parties involved appear to have a covered relationship.

Domestic Violence: For reporting purposes, any criminal offense involving the use or threatened use of physical force in which the parties involved appear to have a covered relationship.

Ex parte Hearing: A hearing conducted by the Court in which only the complaining party appears to give testimony.

Predominant Physical Aggressor: The predominant physical aggressor is not necessarily the first disputant to engage in assaultive behavior. Officers shall identify the predominant physical aggressor based on the totality of the

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circumstances. The following should be considered when attempting to determine the predominant physical aggressor in a dispute:

- The intent of the law which is to protect the health and safety of family and household members.
- Who was the first aggressor?
- Prior complaints of family abuse by the allegedly abusing person involving the family or household member.
- Evidence and statements obtained from witnesses.
- Current or previous protective orders that have been filed against involved parties.
- The relative severity of the injuries inflicted on persons involved in the incident.
- Whether any injuries were inflicted in self-defense?
- Other observations.

Protective Order: A court order given on behalf of a family or household member that prohibits the abuser from subsequent acts of violence and may order the abuser to refrain from further contact, vacate the residence, relinquish custody of a vehicle, provide temporary child support, plus other measures (*Code of Virginia* §16.1-279.1)

Types of protective orders:

- Emergency protective order (EPO) – valid at least for 72 hours
For domestic violence (*Code of Virginia* §16.1-253.4)
For stalking or violent crimes resulting in serious bodily injury
(*Code of Virginia* § 19.2-152.8)
- Preliminary protective order (PPO) – valid up to 15 days
For domestic violence (*Code of Virginia* § 16.1-253.1)
For stalking or violent crimes resulting in serious bodily injury

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(Code of Virginia §19.2-152.9)

- Full protective order (PO) – valid up to 2 years
For domestic violence (Code of Virginia §16.1-279.1)
For stalking or violent crimes resulting in serious bodily injury
(Code of Virginia §19.2-152.10)

Stalking: Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member. (Code of Virginia §18.2-60.3)

Stalking behaviors include following a person to home, work, and other places, parking outside home or office, threatening notes or telephone calls, threats, or computer-based, on-line threats.

IV. PROCEDURES

Through mutual agreement with the Department of Public Safety Communications (DPSC), the following will occur:

A. Dispatch

1. Events shall be classified on the basis of all information available to the call taker. Should additional information concerning the situation become available to a call taker or dispatcher subsequent to initial entry of the event, the event type should be reevaluated to determine if it properly describes the incident. As a general guideline, the following event types should be used to describe domestic events:
 - a. Domestic Dispute (DOMDIS) - Any incident, not involving a violent criminal offense, in which the parties involved appear to have a covered relationship.

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- b. Domestic Violence (DOMVIO) - Any criminal offense involving the use or threatened use of physical force, in which the parties involved appear to have a covered relationship, as defined in Section III, Family or Household Member. For CAD event entry purposes only, this event type shall not be used to classify any event involving a specific weapon. In these instances, an appropriate event type such as SHOT, STAB, ASLTW, etc., shall be used. Comments describing the apparent relationship between parties shall be included in the narrative portion of the event entry.
 2. Domestic events shall be prioritized in the same manner as any other call for police assistance, following the currently approved DPSC Standard Operating Procedures and the Department's Manual of Regulations and General Orders. Whenever possible, a minimum of two officers shall be assigned to a domestic call.
 3. Call takers receiving a domestic call shall attempt to elicit from the caller and shall communicate to the responding officer as much information as time, nature and the exigencies of the reported incident allow. Call takers should ask the caller about the existence of any protective orders.
 4. The dispatcher shall examine premise history and Location of Interest files to determine if relevant information concerning the address is available. Should such information be identified, it shall be relayed to the responding officers.
 5. The police liaison commander (PLC) or the duty officer will contact the appropriate first line supervisor when a complaint of domestic dispute or domestic violence involving an employee of any law enforcement agency is received.
- B. Police Response
1. The responding officer should approach the scene of a domestic dispute as a high risk event.

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2. The officer should obtain all available information from the dispatcher before arriving at the scene and should notify the dispatcher by voice or MCT upon arrival.
3. All vehicle response in connection with domestic calls shall be in accordance with existing regulations and general orders.

C. Initial Contact

1. The responding officers shall identify themselves as police officers, explain the reason for their presence and request entry into the home. Officers shall request to see the person who is the subject of the call (i.e., alleged victim/complainant). If the person who called the police is someone other than the subject of the call, officers shall not reveal the complainant's name.
2. If refused entry, officers shall be persistent about being seen and speaking alone with the subject of the call. If access is still refused, officers must consider the totality of the circumstances to determine if an emergency exists which would justify an immediate search of the premises for the subject of the call. The assistance of supervisory or command personnel should be requested if time permits.

D. Preliminary Investigation

1. Once inside, the responding officers should establish control by:
 - a. Identifying potential weapons in the surroundings.
 - b. Separating the parties.
 - c. Restraining the assailant, if necessary, and removing the assailant if immediate arrest is warranted.
 - d. Assessing injuries, administering first aid, and/or requesting emergency medical assistance.
 - e. Inquiring about the nature of the dispute.

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- f. Identifying all occupants/witnesses on the premises.
 - g. Separating occupants/witnesses from the victim and accused.
 - h. Locating and ensuring the welfare of any children, or others, at the scene.
2. The officers should interview the parties as fully as circumstances allow.
3. If a potential criminal violation has occurred, the victim's safety and privacy should be ensured by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. In questioning the victim, the officers should use supportive interview techniques. The officer should ask the victim about previous domestic incidents, their frequency and severity including injuries and inquire about the current existence or previous existence of protective orders. If both parties appear to have sustained injuries or make cross/reciprocal complaints, the officers shall attempt to distinguish the predominant aggressor from the victim. The officer should not tell the victim what decision has been made concerning arrest until all available information has been collected.
4. See Sections V. and VI. of this order for additional guidance regarding the enforcement of protective orders.
5. The officer should interview any witnesses as soon as circumstances allow. If witnesses provide information about prior incidents, the officer should document such incidents to establish a pattern.
6. Children should be interviewed in a manner appropriate to the child's age. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer. If signs of abuse and/or neglect are noted, the provisions of General Order 603.2, Assistance to Abused or Neglected Children, shall be followed.

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7. If a criminal violation has occurred, the officer should collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.) and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries to the victim.
8. Responding officers who discover a party involved in a domestic dispute or domestic violence is an employee of this Department or of any law enforcement agency shall advise their supervisor. The first line supervisor will ensure a thorough investigation is conducted, and an arrest is effected, if warranted. The first line supervisor is responsible for notifying the appropriate commander and/or duty officer, as well as the appropriate authorities in the subject's agency.

E. Arrest Decision Factors

1. An officer having probable cause to believe that a violation of *Code of Virginia* §18.2-57.2 (Assault and battery against a family or household member) or *Code of Virginia* §16.1-253.2 (Violation of protective orders and certain court orders which have previously been served on the respondent) has occurred, shall arrest and take into custody the person the officer has probable cause to believe, based on the totality of the circumstances, was the predominant physical aggressor unless there are special circumstances which would dictate a course of action other than arrest. In the event that the suspect has left the scene prior to the arrival of the officer, and there is probable cause that a violation of *Code of Virginia* §18.2-57.2 (Assault and battery against a family or household member) has occurred, the officer shall respond to the magistrate to obtain the arrest warrant unless there are special circumstances which would dictate a course of action other than obtaining the warrant. In situations where the officer responds to the magistrate to obtain the warrant, the officer shall appear as the complainant.

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2. An officer who concludes that special circumstances exist which would dictate a course of action other than arrest or responding to the magistrate to obtain the warrant shall consult with his supervisor for concurrence prior to leaving the scene. The special circumstances exception shall not be based on the fact that the victim does not want to press charges, has not pressed charges in the past, or assurances that the violence will stop.
3. For all other violations, the responding officers should arrest a criminal assailant whenever arrest is permitted by law and supported by facts and circumstances which constitute probable cause to believe that a crime has occurred and that the suspect committed the crime.
4. Under current Virginia law, arrest is permitted in the following circumstances:
 - a. Probable cause to suspect the person of having committed a felony;
 - b. A crime committed in the presence of an officer;
 - c. For simple assault, when such arrest is based on probable cause upon reasonable complaint of the victim or any other person who observed the alleged offense (*Code of Virginia* § 19.2-81);
 - d. For an alleged violation of *Code of Virginia* § 18.2-57.2 (Assault and battery against a family or household member) or *Code of Virginia* § 16.1-253.2 (Violation of protective orders and certain court orders which have previously been served on the respondent), if such arrest is based on probable cause.
 - e. Where there are valid warrants on file.
5. It is the officer's responsibility to decide whether an arrest should be made based solely on the facts and circumstances relevant to the criminal violation. When an arrest is made, the officer shall

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emphasize to both the victim and suspect that the criminal action thus initiated is at the Commonwealth's discretion and not the victim's.

6. If the officer arrests for the commission of a crime, the officer shall confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence.
7. If there is evidence of mutual assault and the officer concludes that one party was acting in self-defense, that party should not be arrested.
8. *Code of Virginia* § 18.2-57.2 states that any person who commits an assault and battery against a family or household member shall be guilty of a Class 1 misdemeanor. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding in violation of *Code of Virginia* § 18.2-51, (iii) aggravated malicious wounding in violation of *Code of Virginia* § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

F. Arrest Procedures

1. When an arrest is made for a violation of *Code of Virginia* § 18.2-57.2 or *Code of Virginia* § 16.1-253.2, the victim shall be advised that the perpetrator is likely to be in custody only briefly and that, although the officer will seek an emergency protective order as required by law, the victim may wish to leave the residence temporarily in order to ensure his/her safety.

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2. The officer should obtain all arrest warrant(s) in the situations previously described. The victim should not be required to obtain warrant(s).
3. When an arrest is made for a violation of *Code of Virginia* § 18.2-57.2 or *Code of Virginia* § 16.1-253.2, the officer shall petition for an emergency protective order when the person arrested is brought before the magistrate. (*Code of Virginia* § 16.1-253.4)

The victim should be advised of the expiration date listed on the emergency protective order, and that obtaining a preliminary protective order from the Juvenile and Domestic Relations Court should be considered.

4. Officers shall ensure that subpoenas are issued for all victims and witnesses in domestic violence cases. Victims and witnesses shall be informed of the potential consequences of failing to answer to a subpoena.
5. The provisions of General Order 601, Arrest Procedures, shall be followed in all cases.

G. Procedure When Arrest is Not Permitted or Special Circumstances do not Warrant a Custodial Arrest

1. Regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the officer shall seek an emergency protective order. (*Code of Virginia* § 19.2-81.3)
2. If the nature of an offense does not permit a custodial arrest, a summons may be issued, if appropriate and permitted by law.
3. If an arrest is not made, or the officer cannot determine the probable cause necessary for obtaining the arrest warrant:
 - a. The officer shall explain to the victim the reasons that the arrest is not being made or the warrant is not being sought.

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- b. The officer shall advise the victim of procedures for obtaining a warrant and a protective order.
- c. The officer shall encourage the victim to contact the resources available to assist domestic violence victims.
- d. The officer shall not become involved in the disposition of personal property other than as described in Section H, paragraph 1 below.
- e. In the absence of a warrant or probable cause to believe a crime has occurred, officers shall remain neutral and be concerned primarily with maintaining the peace and safety of those present.

H. Assistance to Victims, Witnesses, and Dependents

1. Whether or not an arrest is made, the responding officers shall not leave the scene of the incident until the situation appears to be under control and the reasonable likelihood of further violence has been eliminated. The officers should stand by while victims gather necessities for short-term absences from home, such as clothing, medication, and necessary documents.

To better assist victims, officers should, in certain situations, accompany victims into residences so they can retrieve items necessary for their stay away from their primary residence. The sole purpose of this policy is to maintain the peace and prevent further violence while the victims gather their property.

2. Whether or not an arrest is made, the responding officers shall notify the victim of the availability of a shelter, including its telephone number and other victim/witness and domestic violence services available in the County. Officers and detectives shall address the rights and concerns of victims and witnesses in accordance with the *Code of Virginia* § 19.2-11.01, Crime Victims and Witness Rights, and consistent with General Order 501.2, Investigative Responsibilities.

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3. As soon as practicable after identifying a victim or witness of a crime, the preliminary officer or detective shall provide the victim or witness with the Victim Services Section's trifold brochure. The parent or legal guardian of any crime victim who is a minor, or the spouse, parent, or legal guardian of any crime victim who is physically or mentally incapacitated, must also be notified of these rights and services available to them by the officer or detective. The distribution of this Victim Service's Section's form and the disclosure of any other information or services provided to the victim or witness shall be documented in the narrative of the incident report or supplement.
4. If the victim is unable to communicate in written or spoken English, the officer shall arrange for translation of all information concerning the availability of community victim assistance resources. Except in emergency or exigent circumstances, officers should avoid using children of the involved persons for translation purposes.
5. In circumstances in which it is necessary for the victim temporarily to leave the residence, the officer shall offer the victim assistance in locating lodging with family, friends or in public shelters. The Victim Services Section shall be contacted if the victim requires temporary alternative housing services such as a domestic violence shelter or hotel.
6. The officer, upon request of the victim, shall provide or help arrange transportation to emergency housing or to a medical facility. The address of the location the victim is transported to shall not be included on any police reports; however the location shall be provided to the Victim Services Section and district station domestic violence detective.
7. When an officer determines that a preliminary report will be made regarding a domestic violence event involving assault and battery, he shall advise the victim that a summary of the field investigation report can be obtained by responding to the Central Records Section approximately ten days after the incident. The request

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must be made in person and the victim must furnish proper identification. If a personal request is not feasible, authorization for the release of the report to another person must be provided by power of attorney.

I. Reporting of Events

1. It shall be the responsibility of the officer preparing a preliminary investigation report to classify the actual event on the basis only of facts known at the time of the report and at the completion of preliminary investigative activities. Such classification shall be supported in the narrative of the report with facts that will permit any reviewing authority to identify the elements of the crime or service classification used. The narrative shall further contain a complete summary of the actions taken to elicit the facts, and of actions not taken which may be required to successfully conclude the case. Narrative portions of all preliminary reports shall support the classification and status assigned to the case.

In all cases of domestic violence, the presence of juvenile family or household members, even if they did not directly witness the incident, should be documented in the narrative. Names and ages are not required but should be included if available.

2. A victim's refusal to cooperate does not apply as an exceptional means to close cases of assault and battery against a family or household member (*Code of Virginia* § 18.2-57.2) or violation of protective orders and certain court orders which have previously been served on a respondent (*Code of Virginia* § 16.1-253.2).
3. First line supervisors shall ensure that all required elements of a report have been completed clearly and accurately. Particular emphasis shall be given to the classification of the actual event, the narrative support given the classification, the presence or absence of facts warranting follow-up investigation, and whether the case status assigned by the officer is appropriate.
4. In those instances when an arrest is made, a copy of the incident report(s) shall be faxed to the Commonwealth's Attorney's Office

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by the conclusion of the officer's shift. The fax number for the Commonwealth's Attorney's Office is 703-691-4004. Whether or not an arrest is made, a copy of the incident report shall be forwarded to the Victim Services Section and the district station domestic violence detective.

5. Repeat Offenders – If the reporting officer is informed or learns of a history of domestic violence, this should be documented in the investigative report narrative. The report will be electronically submitted to the domestic violence detective of the appropriate district station for follow up.

The assigned detective will ensure that:

- Victim Services, Crime Prevention, Child Services, school resource officers or any other relevant prevention and assistance organizations are informed.
- The case is logged in the I/LEADS case management system for tracking purposes.
- Certified copies of prior convictions should be obtained to aid in the prosecution of the case.
- The Commonwealth's Attorney will be contacted and provided with information relating to past history.
- If the domestic violence detective is present for the court proceedings, an investigation supplement should be filed outlining the results of the court proceeding. This will aid in any future investigations.

V. EMERGENCY PROTECTIVE ORDER

Officers investigating assaults against family or household members may find it necessary to initiate, through a magistrate, an emergency protective order when probable cause exists that such an assault occurred and there are reasonable grounds to believe that there is probable danger of a further offense against the victim.

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- A. In every case in which an officer makes an arrest for assault against a family or household member, the officer shall petition for an emergency protective order when the person arrested is taken into custody and brought before a magistrate (*Code of Virginia* §§ 19.2-81.3 and 16.1-253.4).
- B. Regardless of whether an arrest is made, if the officer has probable cause to believe that a danger of acts of family abuse exists, the officer shall seek an emergency protective order from a magistrate. (*Code of Virginia* §§ 19.2-81.3 and 16.1-253.4)
- C. Emergency protective orders are issued at the request of a police officer or an allegedly abused person. At the request of an abused person, officers shall assist in the transportation of a victim to appear before a magistrate.
- D. The decision to seek an emergency protective order should not be affected by the fact that the family or household member left the premises to avoid the danger of another assault.
- E. Officers may attempt to secure an EPO via telephone in cases where the suspect has fled the scene and there is probable cause to believe that family abuse has occurred with probable danger of further abuse against a family or household member. Prior to making contact with the magistrate, the officer shall complete state form DC-626, Emergency Protective Order - Family Abuse. In completing the EPO form, the abused person or crime victim will be listed as the petitioner. An EPO granted to a police officer by telephone should be returned to the issuing magistrate if possible.
- F. The following conditions may be imposed by the magistrate:
 - 1. No further acts of family abuse to be committed by respondent.
 - 2. No contact by the respondent with family or household members as the magistrate deems appropriate to protect the safety of such persons.

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3. Granting the family or household member temporary possession of the premises to the exclusion of the respondent. (Note - No such granting of temporary possession shall affect title to any real or personal property).
- G. Once an officer receives an emergency protective order from the magistrate, the respondent must be served in person, as soon as possible, for the protective order to go into effect. A copy of the order shall be given to the family or household member, and a copy of the order shall be faxed to the Teletype Section for entry into VCIN when the order is issued. The Teletype Section shall be advised of the EPO's location. The order will automatically expire at 11:59 p.m. the next business day that the family court is in session or 72 hours after issuance, whichever is later. No court hearing is required for an emergency protective order. Upon service of an emergency protective order, a CAD message with the date and time of service shall be sent to the Teletype Section for entry into VCIN.
- H. If the officer is unable to serve the emergency protective order on the respondent prior to the end of the officer's shift, the officer shall forward the EPO to the relieving shift supervisor. The officer shall document this in the incident report. The on-duty supervisor shall ensure continued service attempts are made while the EPO is active. The EPO shall be forwarded to the relieving shift supervisor until the EPO is served or expires. When the EPO is served, the Teletype Section shall be notified. All expired EPO's shall be returned to the Chief Magistrate's office by the PCA. A supplement shall be filed by the officer detailing the action in either case.
- I. The officer obtaining the emergency protective order will enter the event location into the Location of Interest (LOI) file of the CAD system. The LOI entry will have the retention days set to ensure the record remains on file until the expiration of the emergency protective order. The remarks section will include the respondent's name, conditions of the emergency protective order, the emergency protective order's location, and the names of the officer and the issuing magistrate.
- J. Upon receipt of an emergency protective order, or as soon as practical thereafter, the obtaining officer shall ensure the EPO is entered into the

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Warrant Module of I/LEADS consistent with the Report Writing Manual for tracking purposes. The supervisor shall ensure the Warrant Module shall be updated upon EPO service or if the expired EPO is returned to the Chief Magistrate's office.

- K. An incident report shall be submitted by the assigned officer, detailing the officer's actions. A copy of the served emergency protective order shall be attached to the report.

Any respondent upon whom an emergency protective order has been served and who violates that order shall be guilty of a Class 1 misdemeanor (*Code of Virginia* § 16.1-253.2) and shall be arrested and taken before a magistrate. The arrest of an individual in violation of an emergency protective order should be documented on a Virginia Uniform Summons, citing the above Code section.

VI. PROTECTIVE ORDERS

- A. A preliminary protective order or a protective order (final) is issued by the Juvenile and Domestic Relations Court in situations where a family or household member has been assaulted and is likely to be assaulted again. The protective order may direct the suspect to move out of the home and to stay away from the property. (*Code of Virginia* §16.1-253)
- B. Officers shall inform victims of domestic violence of the procedures for obtaining a protective order.
1. The applicant and abuser's relationship must be defined in Section III of this order under Family or Household Member.
 2. The applicant must be the victim of an assault and in fear of repeated assaults.
 3. The applicant must appear before an Intake Officer and swear to the petition.
 4. The petition will be taken before a judge, ex parte, on the same day. The judge will decide whether or not to issue a preliminary protective order in response to the petition. The preliminary

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protective order shall specify a date for the full hearing which shall be held within 15 days of the issuance of the preliminary protective order.

5. The preliminary protective order or a protective order (final) is effective after personal service on the allegedly abusing person is complete.
6. A preliminary protective order is valid from the date of personal service until the court hearing.
7. A final protective order is valid for two years from the date of the hearing, unless otherwise specified by the court.
8. Both a preliminary protective order and a final protective order may be rescinded prior to the expiration date by the Juvenile and Domestic Relations Court on a motion filed by either the respondent or family/household member.

C. Foreign Protective Order (FPO)

An FPO is any judgment, order or decree, whether permanent or temporary, issued by an out of state court of appropriate jurisdiction for the purpose of preventing violent or threatening acts or harassment against or contact or communication with, or physical proximity to another person.

FPOs shall be accorded full faith and credit, and officers shall enforce protective orders from other states or possessions of the United States as if they were issued in Virginia. This applies to all orders in which the respondent has received notice and opportunity to attend a protective order hearing. Enforcement of out-of-state protective orders does not require that they be registered in Virginia. (*Code of Virginia* § 16.1-279).

D. Violations of Protective Orders (*Code of Virginia* §§ 16.1-253.2 and 19.2-81.3)

1. Officers should treat a protective order, including foreign protective orders, as valid on its face and shall enforce the terms

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of the order if it meets the following conditions:

- a. The order contains both parties' names.
 - b. Is signed by a judicial officer.
 - c. Is not expired.
 - d. Terms of the order are clear and it appears that an alleged violation has occurred.
2. A copy of the original order is sufficient for service.
 3. There is no requirement for an FPO to be filed or registered in Fairfax County. Registration is optional. Individuals desiring to register their orders shall be referred to the Juvenile and Domestic Relation Court during regular business hours.
 4. If the complainant/victim is unable to produce the original or copy of the protective order, the officer should take the following actions to determine the status of the order;
 - a. Verify existence and terms of the order or FPO by communicating with the appropriate court or law enforcement personnel in the issuing state or jurisdiction.
 - b. Confirm through use of centrally automated protection order registries. Contact information for each statewide registry is available from the National Center on Protection Orders and Full Faith and Credit at 703-312-7922.
 - c. Contact affected sheriff's office in Virginia if the protective order has been previously filed with a Virginia jurisdiction.
 - d. Request the DPSC Teletype Section to confirm through VCIN and the NCIC Protection Order File (POF).
 5. An officer may rely on representations made by the protected party that a valid order remains in effect, when the totality of

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factors present supports this determination. For example, the accused person acknowledges existence of the protective order.

6. In situations where the existence and status of a protective order or EPO cannot be confirmed, officers shall not make an arrest based on the existence of the order. However officers shall enforce all applicable state and local statutes concerning domestic violence, assaults and other violations of law.
7. If an officer determines that a valid protective order or EPO has not been properly served on an accused person who is present at a complaint, the officer should:
 - a. Serve the protective order or EPO on the accused person.
 - b. Prepare and submit a confirmation of service form to the Juvenile and Domestic Relations Court and Sheriff's Office for entry into VCIN.
 - c. Notify the issuing authority that the accused person received notice and or a copy of the protective order.
 - d. Complete an incident report documenting the incident.
 - e. Provide copies of the report to Victim Services and the District Station Domestic Violence detective.

E. Protective Order Files

1. Preliminary Protective Orders (*Code of Virginia* § 16.1-253.1)
 - a. By CAD message from the Sheriff's Office, Central Records will be provided with information on served preliminary spousal protective orders, which specify "the respondent shall grant the petitioner possession of the residence occupied by the parties to the exclusion of the allegedly abusing spouse...."

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- b. The protected family/household member's address, respondent's name, and the scheduled court date shall be entered into the CAD Location of Interest File (LOI).
- c. An expiration date, five business days after the scheduled court date, shall be set for the LOI entry.
- d. A copy of the served preliminary protective order will be provided to Court Liaison on the next business day by the Sheriff's Office. Court Liaison shall forward the order to the appropriate district station for posting on the roll call board.
- e. Should the provisions of a preliminary protective order be modified by the Court to include or eliminate the requirement for a respondent or a family/household member to remain away from the residence, the Clerk of the Juvenile and Domestic Relations Court shall provide such information to Central Records. Central Records personnel shall immediately enter, delete or otherwise modify the LOI record to reflect the new information.

2. Protective Orders (Final) (Code of Virginia § 16.1-279.1)

- a. The Clerk's Office will provide Central Records with copies of final protective orders, issued after a hearing by the Juvenile and Domestic Relations Court, which specify "the respondent shall grant the petitioner possession of the residence occupied by the parties to the exclusion of the respondent. . . ."
- b. The protected family/household member's address, along with the respondent's name and expiration date of the order shall be entered into the CAD Location of Interest File (LOI).
- c. An expiration date of 99 days (unless a shorter effective interval is specified by the order), will be established for each LOI record.

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- d. Should the provisions of a final protective order be modified by the Court to include or eliminate the requirement for any person to remain away from the residence, the Clerk of the Juvenile and Domestic Relations Court shall provide such information to Central Records. Central Records personnel shall immediately enter, delete or otherwise modify the LOI record to reflect the new information.
- e. On a monthly basis, the DPSC staff shall provide Central Records with a listing of all protective orders currently in the LOI file.
- f. The DPSC staff will additionally provide the listing of protective orders to the Clerk of the Juvenile and Domestic Relations Court. The clerk will then verify the status of all listed protective orders within five business days.
- g. The list of protective orders will be returned to Central Records with all discrepancies noted.
- h. Central Records will make all entries, deletions and modifications to the LOI file necessary to resolve these discrepancies.

F. Tracking of the Service or Attempted Service of Protective Orders

- a. Officers may encounter situations where they may be requested to assist with the service of preliminary protective orders (PPO), protective orders (Final) or foreign protective orders (FPO).
- b. Upon receipt of a preliminary protective orders, protective orders (Final) or foreign protective orders, or as soon as practical thereafter, the obtaining officer shall ensure the preliminary protective orders (PPO), protective orders (Final) or foreign protective orders (FPO) is entered into the Warrant Module of I/LEADS consistent with the Report Writing Manual for tracking purposes.

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- c. Entry into the Warrant Module does not apply to a Teletype "Attempt to Locate" request from another agency or jurisdiction. The Department must be provided a physical copy of the protective order for service in order for tracking in the Warrant Module to be necessary.
- d. The Warrant Module shall be updated upon service of preliminary protective orders, protective orders (Final) or foreign protective orders. The supervisor shall ensure the Warrant Module is updated if at any time service of the preliminary protective order, protective order (Final) or foreign protective order will not be completed because the protective order has expired or the respondent cannot be located and the protective order is being returned to the originating court, agency or jurisdiction.
- e. The service of any preliminary protective order, protective order (Final) or foreign protective orders shall be documented in an incident report under the appropriate event type.

VII. GENERAL OR NON-FAMILY/HOUSEHOLD MEMBER PROTECTIVE ORDERS (GENERAL DISTRICT COURT)

- A. When two parties do not meet the definition of family or household member, protective order relief may still be available to alleged victims through *Code of Virginia* §§ 19.2-152.8, 19.2-152.9, and 19.2-152.10.
- B. Emergency Protective Order (§ 19.2-152.8)
 - 1. An emergency protective order (EPO) is issued by a judge or magistrate, upon request of a law enforcement officer or an alleged victim. To obtain this EPO, the alleged victim must have been subjected to an act of violence, force, or threat, and the judge or magistrate finds that (i) there is probable danger of a further such act being committed by the respondent against the alleged victim or (ii) a petition or warrant for the arrest of the respondent has been issued for a criminal offense resulting from the commission of an act of violence, force, or threat. Law enforcement may request an EPO either by telephone or in

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person. An alleged victim must appear in person before a judge or magistrate to request an EPO.

2. An EPO can:

- a. Prohibit acts of violence, force, or threat or criminal offenses resulting in injury to person or property,
- b. Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and
- c. Grant other conditions that the judge or magistrate deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

3. An EPO expires at 11:59 p.m. on the third day following issuance. If the expiration occurs on a day that court is not in session, the EPO shall be extended until 11:59 p.m. on the next day that the court that issued the order is in session.

4. Law enforcement should advise the victim that he/she may request a preliminary protective order, within a reasonable period of time following the incident, through the general district court (§ 19.2-152.9).

5. Law enforcement officers may petition for an extension of an EPO on behalf of the victim, if the person protected by the order is mentally or physically incapacitated (not to exceed three days after expiration of the original order).

C. Preliminary Protective Order (§ 19.2-152.9)

1. A preliminary protective order (PPO) is issued by a judge, upon request of an alleged victim. To obtain a PPO, the alleged victim must have been subjected to an act of violence, force, or threat, or a petition or warrant has been issued for the arrest of the alleged perpetrator for any criminal offense resulting from the commission

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of an act of violence, force, or threat. An alleged victim must appear before a judge in person to request a PPO.

2. A PPO can:
 - a. Prohibit acts of violence, force, or threat or criminal offenses that may result in injury to person or property,
 - b. Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and
 - c. Grant other conditions that the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.
3. A PPO is valid for 15 days, or until the date of the next hearing scheduled at the time of issuance of the preliminary protective order.

D. Protective Order (§ 19.2-152.10)

1. A protective order (PO) is issued by a judge, following a hearing at which both the petitioner and respondent are present.
2. A PO can:
 - a. Prohibit acts of violence, force, or threat or criminal offenses that may result in injury to person or property,
 - b. Prohibit contacts by the respondent with the petitioner or the petitioner's family or household members, and
 - c. Grant other conditions that the court deems necessary to prevent (i) acts of violence, force, or threat, (ii) criminal offenses resulting in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

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3. A PO is valid for any period of time up to a maximum of two years.
- E. Violations of Non-Family/Household Member Protective Orders (§ 18.2-60.4)
1. Only the respondent listed on a protective order can be charged with a violation of that order.
 2. Officers cannot arrest for a violation of a protective order if the respondent has not been served with the order. In this case, the officer shall serve the order immediately.
 3. If a copy of the protective order is not available, officers may still enforce the order and its conditions, upon a credible statement that an order has been granted and served. When relying on such a statement, it is recommended that the officer have the complainant victim write and sign the statement.
 4. Any person who violates any provision of a protective order issued pursuant to §§ 19.2-152.8, 19.2-152.9 or 19.2-152.10 is guilty of a Class 1 misdemeanor.
 5. The punishments for certain violations and for second and third convictions increase to include mandatory minimum terms of confinement and more severe penalties.
 6. Upon conviction for any protective order violation, the person shall be sentenced to a term of confinement and in no case shall the entire term imposed be suspended. Upon conviction, the court shall, in addition to the sentence imposed, enter a protective order pursuant to § 19.2-152.10 for a specified period not exceeding two years from the date of conviction.
- F. The documentation of incidents involving general or non-family/household member protective orders shall be in compliance and consistent with Section IV, I. Reporting of Events within this General Order.

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- G. All service or service attempts of general or non-family/household member protective orders shall be in compliance and consistent with Section VI, F. Tracking of the Service or Attempted Service of Protective Orders within this General Order.

VIII. LEGAL REFERENCES

A. *Code of Virginia*

16.1-228	18.2-57.2
16.1-253	18.2-60.3
16.1-253.1	18.2-60.4
16.1-253.2	19.2-11.01
16.1-253.4	19.2-81
16.1-279.1	19.2-81.3
18.2-51	19.2-152.8
18.2-52	19.2-152.9
18.2-51.2	19.2-152.10

- B. The Full Faith and Credit Provision of the Federal Violence Against Women Act (VAWA), 18 U.S.C., Sections 2265 – 2266

IX. ACCREDITATION STANDARDS REFERENCE

VLEPSC

ADM.		OPR.	
02.02	23.03	02.01	12.02
23.01		02.03	13.01
23.02		12.01	

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This General Order becomes effective on April 1, 2013, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

A handwritten signature in black ink, appearing to be "H. C. P.", written over a horizontal line.

Chief of Police

APPROVED BY:

A handwritten signature in black ink, appearing to be "Edward L. L.", written over a horizontal line.

County Executive